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Special Town Meeting
November 2, 3, 7, 2005

The meeting was televised by Amherst Community Television and shown on the Government Channel.

The Special Town Meeting was called to order by the Moderator, Harrison Gregg at 7:40 p.m. There were 246 Town Meeting Members. 124 Town Meeting Members were checked in and a quorum was declared. The call and the return of the warrant were read by Town Clerk, Anna M. Maciaszek. The Select Board Chair, Robert Kusner, recognized the dedicated service of several town committee members, who served the Town for six or more years. New Town Meeting Members were sworn to the faithful performance of their duties. James Scott, H. Oldham Brooks, Nonny Burack, James Pistrang, Nancy Gordon and Hilda Greenbaum were sworn as tellers. Consideration of Articles 3 and 4 were scheduled for Wednesday, November 9, 2005 at 7:30 p.m. and 7:35 p.m. respectively. Consideration of Article 10 was scheduled for Thursday, November 3, 2005 at 7:30 p.m. Consideration of Article 11 was scheduled for Monday, November 7, 2005 at 7:30 p.m. Consideration of Articles 27 and 28 were scheduled to be considered before Article 1. The meeting took action on Articles 1, 2, 5, 6, 7, 27 and 28.

ARTICLE 1. Reports of Boards and Committees (Select Board)

VOTED unanimously that the Town hear only those reports of Town officers, the Finance Committee, and any other Town boards or committees which were not available in written form. Action taken on 11/2/2005.

ARTICLE 2. Transfer of Funds – Unpaid Bills (Select Board)

VOTED unanimously that the Town raise and appropriate \$706 to pay unpaid bills of the previous year. Action taken on 11/2/2005.

ARTICLE 5. FY 06 Operating Budget Amendments (Finance Committee)

MOTION A:

VOTED to amend the action taken under Article 30 of the 2005 Annual Town Meeting, Fiscal Year 2006 Operating Budget, by appropriating to the Health Claims Trust Fund \$705,443 for employee health insurance and to meet such appropriation transfer \$705,443 from Free Cash in the Undesignated Fund Balance of the General Fund, said appropriation to be reimbursed to the General Fund monthly via a temporary health insurance premium surcharge to employers and employees until such time the total appropriation has been reimbursed. Action taken on 11/2/2005.

MOTION B:

VOTED to amend the action taken under Article 30 of the 2005 Annual Town Meeting, Fiscal Year 2006 Operating Budget, by increasing the appropriation for Public Safety by \$33,650 for Fire/EMS and to meet such increased appropriation transfer \$33,650 from Ambulance Receipts Reserved for Appropriation. Action taken on 11/2/2005.

ARTICLE 6. Special Services - Amherst Community Television/Cable Advisory Committee
(Select Board, Cable Advisory Committee)

VOTED unanimously that the Town raise and appropriate \$4,000 for the enforcement of the provisions of the 1996 License Agreement between the Town and Comcast and, under the terms of the 1996 contract between the Town and Amherst Community Television, for Amherst Community Television and related purposes if unused or uncommitted by the Cable Advisory Committee for enforcement purposes by March 1, 2007. Action taken 11/2/2005.

ARTICLE 7. Transfer Control of Wentworth Farm (Conservation Commission)

DEFEATED YES 96, NO 60 (2/3rds majority not obtained) [I move that the Town transfer 25 acres, more or less, of land now informally managed for the town by the Conservation Commission and composed of Parcel 46 of Map 18A and portions of Parcels 17 and 18 of Map 18A of the Town Cadastre and bounded by Belchertown Road, Old Farm Road, and land of the Conservation Commission abutting the Fort River from the care and custody of the Select Board to the formal management and control of the Conservation Commission under Massachusetts General Laws Chapter 40, Section 8C.] Action taken on 11/2/2005.

10:07 p.m., November 2, 2005 – The meeting voted to adjourn to Thursday, November 3, 2005 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 185 Town Meeting Members were checked in.

The Thursday, November 3, 2005 session, adjourned from Wednesday, November 2, 2005, was called to order by the moderator at 7:44 p.m. 124 Town Meeting Members checked in and a quorum was declared. The Moderator recognized those Town Meeting Members that passed away this year and requested a moment of silence in their honor. The meeting took action on Articles 8, 9, 10, 12, 13, 14 and 15.

ARTICLE 8. Special Act and Transfer of Control – Olympia Drive (Select Board)

MOTION A:

VOTED UNANIMOUSLY that the Town authorize the Select Board to petition the General Court for a Special Act to remove from the provisions of Article 97 of the Massachusetts Constitution and to allow to be used for affordable housing or general municipal purposes a certain parcel of land located on Olympia Drive, Amherst, Massachusetts, which parcel is the northwestern portion of the land taken pursuant to an Order of Taking dated July 13, 1987, and recorded in the Hampshire Registry of Deeds in Book 3018, Page 309, also being a portion of Assessors Map 8D, Parcel 20, and containing 11.9 acres, more or less.

Action taken on 11/3/2005.

Motion B:

VOTED UNANIMOUSLY that the Town transfer from the care and custody of the Select Board to the formal management and control of the Conservation Commission under Massachusetts General Laws Chapter 40, Section 8C a portion of a certain parcel of land located on Olympia Drive, Amherst, Massachusetts, which parcel is the southern and eastern portion of the land taken pursuant to an Order of Taking dated July 13, 1987, and recorded in the Hampshire Registry of Deeds in Book 3018, Page 309, also being a portion of Assessors Map 8D, Parcel 20, and containing 16 acres, more or less.

Action taken on 11/3/2005.

ARTICLE 9. Capital Program - Site Selection and Preliminary Design for Fire Station(s) in Amherst (Fire Station Committee)

VOTED that the Town appropriate \$20,000 for preliminary site evaluation and conceptual design and preliminary cost estimate for a new fire station, and conceptual design and preliminary cost estimate for renovation to Central Fire Station, and to meet that appropriation transfer \$20,000 from Ambulance Receipts Reserved for Appropriation.

Action taken on 11/3/2005.

ARTICLE 10. Capital Program – Amherst Area Transportation Plan (Public Transportation Committee)

DEFEATED YES 76, NO 88 [To see if the Town will appropriate \$20,000 for preparation of the transportation component of the town's Comprehensive Plan under the guidance of the Public Transportation & Bicycle Committee in cooperation with the Comprehensive Planning Committee and other committees, as appropriate, and to meet such appropriation transfer \$20,000 from the Transportation Fund.]

Action taken 11/3/2005.

ARTICLE 11. Capital Program – Master Plan (Comprehensive Planning Committee, Joint Capital Planning Committee)

VOTED that the Town raise and appropriate \$65,000 for development of a comprehensive Master Plan as required under Massachusetts General Laws 41, Section 81D and in implementation of Article 27 of the November 8, 2004 Special Town Meeting.

Action taken on 11/7/05.

ARTICLE 12. Capital Program – Preliminary Survey of Town Commons (Public Works Committee)

VOTED unanimously to DISMISS [To see if the Town will appropriate \$2,000 to survey and define the various Town commons for the purpose of producing recordable instruments and determine whether such appropriation shall be met by taxation, by the transfer of available funds, or otherwise and further to authorize the application for and acceptance of any gifts, bequests, or grants.]

Action taken on 11/3/2005.

ARTICLE 13. Building Committee for Fort River and Wildwood School Renovations (School Committee)

VOTED unanimously that the Town approve the establishment of a Fort River and Wildwood School Building Committee for development of the schematic design phase of the renovation of Wildwood and

Fort River schools and authorize the Moderator to appoint its members, at least one of whom shall be a member of the School Committee.
Action taken on 11/3/2005.

ARTICLE 14. Amend Town Bylaw – Council on Aging Bylaw (Council on Aging)

VOTED that the Town amend the Town Bylaws, Article 5, by deleting the lined out language and adding the language in ***bold italics***, as follows:

COUNCIL ON AGING

There shall be a council on aging consisting of nine members, ***some members of which shall represent those age 60 and over***, appointed by the town manager for three year terms ~~except that at the outset three shall be appointed for a one year term, three for a two year term and three for a three year term, all such terms to end at the opening of the annual council meeting for the appropriate year unless they are completing an unexpired term.~~ Any vacancy shall be filled by the town manager, ***who will take into consideration the recommendation of the Nominating Committee of the Council on Aging.*** The members shall serve without compensation. The council shall elect its own chairman ~~and its secretary,~~ each for a one-year term. ~~The A~~ secretary shall ~~keep minutes of its~~ ***record all the proceedings of the*** meetings and attend to its correspondence. ~~A Senior Center staff member may serve as secretary instead, if needed. The council shall meet at least four times a year, a meeting in the spring to be its annual meeting. Regular meetings of the Council may be held monthly, the date, time and place to be designated by the chair.~~ It shall have the authority granted to it by Section 8B, as now or hereafter amended, of Chapter 40 of the General Laws, and shall coordinate or carry out programs designed to meet the problems of the aging in coordination with ~~programs of the Commonwealth's Commission on Aging established under Section 73 of Chapter 6 of the General Laws.~~ ***programs of the Department of Elder Affairs.***

Action taken on 11/3/2005.

ARTICLE 15. Amend Town Bylaw – Handicapped Parking (Select Board)

VOTED that the Town amend the Town Bylaws, Article II, Handicapped Parking, by increasing the penalty in Section 2 from \$100 to \$200.

Action taken on 11/3/2005.

9:51 p.m., November 3, 2005 – The meeting voted to adjourn to Monday, November 7, 2005 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 170 Town Meeting Members were checked in.

The Monday, November 7, 2005 session, adjourned from Thursday, November 3, 2005, was called to order by the moderator at 7:34 p.m. 123 Town Meeting Members checked in and a quorum was declared. The meeting took action on Articles 11, 16, 17, 18, 19, 20, 21, 22 and 23.

ARTICLE 16. Amend Town Bylaw – Article 1 (Town Meeting Coordinating Committee)

VOTED that the Town incorporate into Article 1 of the Town Bylaws, immediately following the section headed "Finance Committee," the following Bylaw:

(a) The Town Meeting Coordinating Committee. Duties of the Committee

There shall be a Town Meeting Coordinating Committee consisting of seven members who shall be elected, as required by Section (b) "Committee Elections," by the members of Town Meeting at the Annual Town Meeting.

Duties of the Committee. The first duty of this Committee shall be to provide continuing leadership and organization to Town Meeting and to extend outreach to the community on behalf of Town Meeting. The duties the Committee shall undertake shall include, but not be limited to the following: (1) organizing warrant forums prior to Town Meeting open to the public, (2) communicating to the public about Town Meeting through various means, (3) taking responsibility for the education and orientation for new Members. The Committee shall perform such other duties as Town Meeting shall determine from time to time.

(b) Committee Elections; Term of Office; Termination of Membership; Committee Vacancies

Committee Elections. The members shall hold office for two years. Four members shall be elected in even-numbered years and three in odd-numbered years. Nominations to the Committee shall be made in writing and delivered to the Town Clerk, with the consent of the nominee recorded on the nomination paper. Nominations shall be accepted at a session of each Annual Town Meeting to be determined by the Moderator after consultation with the Town Clerk or at the Town Clerk's Office

prior to that session. The Town Clerk shall prepare a ballot of those nominated, which ballot shall be presented to each Town Meeting Member at a subsequent session of the Annual Town Meeting to be determined by the Moderator after consultation with the Town Clerk. Each Town Meeting Member shall cast a number of votes less than or equal to the number of seats available.

Term of Office. Committee members' terms shall begin upon the dissolution of the Town Meeting at which they were elected and expire upon the dissolution of the Annual Town Meeting of the second year following their election. Members shall be sworn in by the Town Clerk.

Termination of Membership. Membership on the Committee shall terminate when the member submits a letter of resignation to the Town Clerk or ceases to be a Town Meeting member.

Committee Vacancies. When a position on the Committee becomes vacant for any reason other than expiration of a term, the Moderator shall appoint, from among those unelected candidates of the most recent Committee election who are still Town Meeting members and still willing to serve, the candidate who received the highest number of votes in said election, ties to be resolved by a coin toss. If no unsuccessful candidate from the most recent election meets these qualifications, the Moderator shall appoint a Committee member from among the current Town Meeting members. Appointed Committee members shall serve the remainder of the uncompleted term.

(c) Committee Internal Organization and Procedures: Officers, Subcommittees, Minutes

Officers. Upon dissolution of each Annual Town Meeting, the Committee shall elect from their membership a chairperson, vice-chairperson, a clerk, and a stacker, to serve until the dissolution of the next Annual Town Meeting.

Subcommittees. The Committee may, from time to time, constitute subcommittees as it deems appropriate. Subcommittees may include Town Meeting members who are not members of the Coordinating Committee. Each subcommittee shall be chaired by a member of the Coordinating Committee and appointed by the Chair of the Coordinating Committee.

Minutes. The Committee shall keep minutes of its proceedings and shall file these minutes with the Town Clerk. The proceedings of the subcommittees shall be rendered as reports to be included in the Committee's minutes.

Action taken on 11/7/2005.

ARTICLE 17. Zoning Bylaw – Planning Board Appointments (Planning Board)

VOTED by a declared 2/3rd vote that Town amend Section 10.02 of the Zoning Bylaw by deleting the ~~lined out~~ language and adding the language in ***bold italics***, as follows:

10.02 The Planning Board shall consist of nine regular members. In addition, two associate members may be appointed. All members shall be appointed by the Town Manager, ***with approval of the Select Board***, under Section ~~4.4~~ ***4.54*** of the ~~Town Manager~~ ***Amherst Town Government Act*** and shall be appointed for a term of three years, except for appointments to fill an unexpired term.

Action taken on 11/7/2005.

ARTICLE 18. Zoning Bylaw – Zoning Board of Appeals Appointments (Select Board)

VOTED unanimously that the Town amend Section 10.01 of the Zoning Bylaw by deleting the ~~lined out~~ language and adding the language in ***bold italics***, as follows:

10.01 The Zoning Board of Appeals shall consist of three members and four associate members, all residents of the Town of Amherst, ***the three members*** appointed and serving ***for three year terms and*** as ***otherwise*** set forth in Chapter 40A of the General Laws, as amended. ~~Each year the term of one of the regular members shall expire. The term of each member and associate member shall conclude at the later of the expiration of such term or the qualification of a successor. end at the date of the annual Town election of the year in which the term expires, or whenever a successor qualifies, whichever occurs last.~~ Said Board shall have all of the powers and duties of Boards of Appeals under said Chapter, and, in addition, all the powers and duties herein prescribed. Copies of rules promulgated by the Board of Appeals may be obtained from the Town Clerk's Office.

Action taken on 11/7/2005.

ARTICLE 19. Zoning Bylaw – Design Review Board Appointments (Select Board)

VOTED unanimously that the Town amend Section 3.2 of the Zoning Bylaw by deleting the ~~lined-out~~ language and adding the language in ***bold italics***, as follows:

3.201 Design Review Board

In accordance with the provisions of Chapter 40A of the Massachusetts General Laws, a Design Review Board is hereby established. The Design Review Board shall review applications for all actions that are subject to the provisions of this section and shall make recommendations to the appropriate permit-granting authority concerning the conformance of the proposed action to the design review standards contained herein.

The Design Review Board shall consist of five members, two of whom are registered architects, landscape architects or persons with equivalent professional training, and one of whom operates a business or owns commercial property in the affected area. Appointments to the Design Review Board shall be made, ~~as follows~~ ***by the Select Board. Of the five Design Review Board members, one member shall represent the Planning Board and one member shall represent the Historical Commission. The Planning Board and Historical Commission shall vote to recommend their representatives to the Select Board and forward those recommendations to the Select Board prior to appointment. These two representative members need not be members of the Planning Board or Historical Commission.***

- 1) ~~One member shall be appointed by the Chairperson of the Planning Board, with the concurrence of a majority of said Board;~~
- 2) ~~One member shall be appointed by the Chairperson of the Historical Commission, with the concurrence of a majority of said Commission; and~~
- 3) ~~Three members shall be appointed by the Chairperson of the Select Board, with the concurrence of a majority of said Board.~~

The terms of all members of the Design Review Board shall be three years, except that when the Board is originally established, the Select Board shall make two of their appointments for a two year term and the remaining appointment shall be for a one year term.

Action taken on 11/7/2005.

ARTICLE 20. Zoning Bylaw – Cluster Dimensions (Planning Board)

VOTED unanimously that the Town amend Table 3 of the Zoning Bylaw – Dimension Regulations, Footnotes, by deleting the ~~lined-out~~ language and adding the language in ***bold italics***, as follows:

- k. Requirements may be modified under a ~~Special Permit~~ ***Site Plan Review approval*** granted for a cluster subdivision.

Action taken on 11/7/2005.

ARTICLE 21. Zoning Bylaw – Fences (Planning Board)

VOTED by a declared 2/3rds vote that the Town amend the following subsections of Section 6.2 of the Zoning Bylaw, Fences, to delete the ~~lined-out~~ language and add the language in ***bold italics***, as follows:

- 6.20 Fences – Fences, ~~or~~ walls, or any similar ~~type~~ structure, shall be considered accessory structures and shall be permitted ***within*** the required ***front, side and rear*** yards subject to the conditions and requirements of Sections 6.22 through 6.29, except that fences in the B-G and ***abutting*** B-L Districts ***and in the B-VC District*** shall require a ~~Special Permit~~ ***approval of the Permit Granting Board or Special Permit Granting Authority with jurisdiction over the proposed or existing Principal or accessory use(s) for which the fence serves as an accessory structure.***
- 6.29 ***Under the provisions of Section 10.38 or 11.24, as applicable, a*** fence, wall, and planting requirements as found in Sections 6.23 through 6.28 may ***for compelling reasons of safety, aesthetics, or site design*** be modified by the ~~Zoning Board of Appeals by the issuance of a Special Permit, based upon a finding that such modification is not detrimental to the neighborhood nor that such modification will jeopardize vehicular traffic and/or pedestrian traffic~~ ***Permit Granting Board or Special Permit Granting Authority with jurisdiction over the proposed or existing Principal or accessory use(s) for which the fence serves as an accessory structure.***

Action taken on 11/7/2005.

ARTICLE 22. Zoning Bylaw – R-G Dimensions (Footnote m.) (Planning Board)

VOTED unanimously that the Town amend Table 3 of the Zoning Bylaw, Dimensional Regulations, footnote m., by deleting the ~~lined-out~~ language and adding the language in ***bold italics***, as follows:

m. ~~For new town houses (Section 3.322), apartments (Section 3.323), and subdividable dwellings (Section 3.324), these areas shall apply i~~In addition to the areas required by this table for any existing dwelling units on the lot. ~~In addition,~~ the density for new town houses, (***Section 3.322***) ***or*** apartments (***Section 3.323***) ~~, and subdividable dwellings~~ shall not exceed one dwelling unit per ~~6,000~~ ***4,000*** sq. ft. of the remaining lot area, or, ~~the entire area~~ in the case where there are no existing dwelling units, ***4,000 sq. ft. for each new dwelling unit beyond the first unit.***

Action taken on 11/7/2005.

ARTICLE 23. Zoning Bylaw – Flood Prone Conservancy (FPC) District Bylaw (Select Board)

VOTED to refer to the Select Board and the Planning Board [To see if the Town will amend Sections 3.226, 3.3, 6.5, 12.22, and 12.35 of the Zoning Bylaw, as follows:

A. Amend Section 3.226 by deleting the ~~lined-out~~ language and adding the language in ***bold italics***, as follows:

3.226 If any portion of a lot falls within the FPC District, ***then 40 percent of*** that portion ~~which~~ may be used to meet the lot area and ***all of any side or rear yard setback*** requirements for the district in which the remainder of the lot is situated. ***The Special Permit Granting Authority may grant a Special Permit allowing the use of more than 40 percent of FPC District area on a given property to meet minimum lot area requirements of that property, if the Authority determines that such a modification will serve compelling purposes of safety, site design, aesthetics or the general welfare, as defined under Sections 10.38 or 11.24, as applicable, and where no construction, pavement, or other site alterations associated with the application will occur within that portion of the FPC District so used.***

Action taken on 11/7/2005.

10:00 p.m., November 7, 2005 – The meeting voted to adjourn to Wednesday, November 9, 2005 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 189 Town Meeting Members were checked in.

ARTICLE 27. Capital Program - Historical Preservation Restriction – 575 North East Street (Select Board)

VOTED unanimously to DISMISS [A. To see if the Town will appropriate \$50,000 for acquisition of an Historic Preservation Restriction on the pre-1815 brick Federal house known as the Benjamin Kimball House and associated property at 575 North East Street (Map 9C-1/Parcel 28); determine whether such appropriation shall be met by borrowing, taxation, the transfer of available funds, or otherwise, and authorize the application for and acceptance of any gifts, bequests, or grants; and authorize the Select Board to acquire said restriction, which shall include the following area and serve the following purposes:

The area of the Historic Preservation Restriction shall include the original brick portions of the Benjamin Kimball House and all immediately abutting land area in an exclusion from an Agricultural Preservation Restriction (APR) encumbering surrounding property, said Restriction beginning at the eastward edge of the North East Street public way, proceeding east to a line parallel to and twenty (20) feet from the rear (east) wall of the house, and bounded on the north and south by APR encumbered lands.

B. To see if the Town will authorize the Select Board to acquire by purchase or gift and appropriate \$1,300,000 for the acquisition of the property at 575 North East Street (Map 9C-1, Parcel 28) surrounding and including the Benjamin Kimball House; determine whether such appropriation shall be met by borrowing, taxation, the transfer of available funds, or otherwise and authorize the application for and acceptance of any gifts, bequests, or grants; and authorize the Select Board to thereafter sell or dispose of, upon such terms and conditions as the Select Board may deem reasonable and appropriate, any and all property interests except for an Historic Preservation Restriction to be retained by the Town.]

Action taken on 11/2/2005.

ARTICLE 28. Capital Program - Agricultural Preservation Restriction – West Street (Select Board)

VOTED unanimously to DISMISS [A. To see if the Town will authorize the Select Board to acquire by purchase, gift, eminent domain or otherwise, the easement rights held by Alvah G. Eldridge, Nettie M. Eldridge, Miriam D. Richards, Ethelyn E. Richards and/or any other persons claiming any rights in such easement, which easement permits drainage and sewage to be emptied onto certain land located on West Street, being Map 20C, Parcel 151 of the Town Cadastre, as more particularly described in the deed of Anna Elizabeth Nanartonis to the Nanartonis Family Trust dated January 2, 1991, and recorded at the Hampshire County Registry of Deeds in Book 3673, Page 117.

B. To see if the Town will authorize the Select Board to purchase, jointly with the Commonwealth of Massachusetts Department of Food and Agriculture, an Agricultural Preservation Restriction from the Nanartonis Family Trust on land located on West Street, being Map 20C, Parcels 149, 150 and 151 of the Town Cadastre, appropriate \$30,000 for said purchase, and determine whether such appropriation shall be met by borrowing, taxation, the transfer of available funds, or otherwise and authorize the application for and acceptance of any gifts, bequests, or grants.]

Action taken on 11/2/2005.